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DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0216 MVE

Motor Vehicle Excise Tax

For Tax Period: 12/31/95 Through 9/30/97

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Motor Vehicle Excise Tax – Imposition

Authority: IC 9-13-2-78; IC 9-18-2-1

Taxpayer protests the imposition of the motor vehicle excise tax on his 1988 Cadillac.

STATEMENT OF FACTS

Taxpayer was assessed motor vehicle excise tax on his 1988 Cadillac for the periods 12/31/95 through 9/30/97. Taxpayer protested these assessments. Additional facts will be provided below as necessary.

I. Motor Vehicle Excise Tax – Imposition

DISCUSSION

Pursuant to Indiana Code section 9-18-2-1, an Indiana resident must register all motor vehicles, owned by that person, within sixty days of becoming an Indiana resident.

Indiana Code section 9-13-2-78 defines an Indiana resident, in part, as one who has been living in Indiana for at least one hundred eighty-three days during a calendar year and who has a legal residence in another state. IC 9-13-2-78 also defines an Indiana resident as one who is living in Indiana if the person has no other legal residence.

Taxpayer claims he was not an Indiana resident until February, 1998 when he permanently moved his residence to Indiana. However, taxpayer states that beginning in July, 1996 he was employed, in Indiana, part-time. Taxpayer states he maintained his residence in Ohio, stayed with his sister (in Indiana) during the week and returned to Ohio on the weekends. Taxpayer claims his part-time employment ended November, 1997.

To support his claim, taxpayer has submitted the findings of an administrative law judge (ALJ) concerning the taxpayer's unemployment insurance appeal (dated 1/27/98). The ALJ found the taxpayer was employed, in Indiana, from August 8, 1996 through January 5, 1997. The ALJ found the taxpayer worked between forty and forty-four hours for a portion of that time. Taxpayer's work hours were reduced to thirty-two hours per week and then finally reduced to twenty-five hours per week. The ALJ did not specify which periods were worked at which number of hours. Taxpayer did not illustrate the number of days he was present in Indiana with regard to the number of hours worked in Indiana during this period. Taxpayer did not provide details of his employment and/or presence in Indiana from January, 1997 through November, 1997.

Per taxpayer's concessions at the administrative hearing, he maintained a residence in Ohio but lived with his sister in Indiana during the workweeks through most of the assessment period. Taxpayer also filed Indiana Full-Year Resident Individual Income Tax Returns for tax years 1996 and 1997.

FINDING

Taxpayer's protest is denied. Per taxpayer's own admission he began to work in Indiana and spent the majority of his time living in Indiana beginning July, 1996. Also, the Department considers the filing of Indiana Full-Year Resident Income Tax returns to be an admission of residency. Taxpayer filed Full-Year Resident returns for both the 1996 and 1997 tax years. Taxpayer has not claimed nor provided evidence these returns were filed mistakenly.